ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 98-170
Truth-in-Billing and	)	
Billing Format	)	

AT&T Comments on Further Notice of Proposed Rulemaking

Pursuant to the Commission's Public Notice, AT&T Corp. ("AT&T") submits its comments on the Further Notice of Proposed Rulemaking ("FNPRM") regarding standard labels for line-item charges relating to federal regulatory action.[1]

In the First Report and Order (¶¶ 49-64) the Commission adopted a guideline requiring carriers to use standardized labels to refer to certain charges relating to federal regulatory action. The FNPRM seeks comment on the Commission's tentative conclusions that the following labels would be appropriate:

- "Long Distance Access" to refer to charges relating to interexchange carriers' costs for access to the networks of local exchange carriers;
- "Federal Universal Service" to refer to charges relating to carriers' Federal Universe Service Fund contributions; and

[1] First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-72, released May 11, 1999, ¶ 71.

- "Number Portability" to describe charges relating to local number portability.

AT&T strongly believes that there is no need or legal basis for any requirement that carriers apply prescribed labels to charges they legitimately choose to collect from customers. However, if the Commission nonetheless elects to pursue its proposals in this regard, AT&T recommends at a minimum that the first proposal above be replaced with a less ambiguous term and that the second be slightly clarified. Moreover, sufficient time must be allowed for carriers to make necessary changes to their systems before any such requirements become effective.

Requiring carriers to use a standardized, government-selected phrase on their bills to describe charges that recover the costs of federally-mandated programs (or any other charges) raises serious legal and policy issues. First, it is far from clear that the Commission has the legal authority to impose such restraints on how carriers may describe their charges, particularly where there is no dispute about carriers' right to impose the charges, or to recover the costs of federal programs from their customers. These legal questions are heightened here, because the proposed labels are designed predominantly to require carriers to adhere to a particular point of view when

describing government actions or programs.[2] And even if it had the authority to issue such a rule, it is an unnecessary use of the Commission's limited resources,[3] which are much better spent on assuring that access rates are cost-based and that universal service supports are fairly and equitably developed and applied.

Just as important, the Commission's two stated bases for adopting the labeling guideline are not convincing[4] and would create more, rather than less, customer confusion. In fact, the two reasons the Commission advances for adopting the labeling requirement (only) for charges related to federal regulatory action simply do not hold water. First, the assertion that the requirement would make it easier for customers to "comparison shop" ignores the fact that some carriers may choose not to apply these specific costs as separate line charges at all but rather

---

[2] See Dissenting Statement of Commissioner Harold Furchtgott-Roth ("Furchtgott-Roth Statement"), p. 2 ("[r]egulation of descriptions for charges when there is nothing factually inaccurate about the carriers' statements - but their description does not reflect the government's preferred explanation of charges - raises grave First Amendment questions").

[3] Id., p. 1.

[4] Separate Statement of Commissioner Michael C. Powell ("Powell Statement"), p. 2.

recover them in their general rate structures.[5] Thus, a customer looking at a bill from such a carrier could reasonably - but mistakenly - believe that the carrier was not recovering those costs. The second rationale, i.e., that such a rule would prevent such labels from becoming false or misleading, is completely unnecessary, because that subject is fully covered by other Commission rules[6] and by the Act itself.[7] There is no reason why the Commission needs an additional rule directed only at carriers that use separate billing phrases to describe Commission policies.[8]

Moreover, the proposed requirement is counterproductive. AT&T and other carriers have gone to significant expense to implement their current names for charges related to federal regulatory programs and to educate their customers about them. Over the past year,

---

[5] Id.

[6] 47 C.F.R. § 64.2001(b) specifically requires descriptions of *all* bill charges to be "brief, clear [and] non-misleading."

[7] See Section 201(b) (declaring unlawful all "unjust and unreasonable" practices).

[8] Powell Statement, p. 2 ("try as we might, we cannot escape the fact that these [line] items do result, at bottom, from actions taken by the government"). See also Furchtgott-Roth Statement, p. 1 ("it is [not carriers' actions but] this agency's attempt to distance itself from certain federal charges that qualifies as misleading").

for example, AT&T has provided billing notices and inserts to tens of millions of customers that describe these charges and the reasons for them. To the extent that customers had questions about AT&T's billing phrases, they were generally resolved through discussions with AT&T customer care representatives. Overall, AT&T spent millions of dollars to educate its customers on these matters. Any mandatory change at this time will only lead to more customer confusion and increased administrative costs. Thus, the least disruptive course for consumers and carriers alike is to allow carriers to continue using the terms their customers have already been taught.

If, however, the Commission insists upon establishing a single set of terms that all carriers must use, AT&T believes that the term "Long Distance Access" does not accurately describe for customers the PICC charges that are assessed against carriers and recovered through this type of charge to end users. The PICC charge is imposed on carriers based on the customer's selection of a primary long distance carrier. Moreover, the charge is not for the benefit of *any* long distance carrier but rather for the benefit of the local exchange company serving the customer. Indeed, the Commission's own description of such charges (¶ 71) is that they "relate[] to interexchange carriers'

cost for access to the networks of local exchange carriers." Thus, these charges are more appropriately referred to as "Presubscribed Line Charges." This term better reflects the nature of the underlying cost to the carriers and does not wrongly imply that the money is ultimately retained by an interexchange carrier.

AT&T also recommends a slight modification to the "Federal Universal Service" label proposed by the Commission. The money recovered by carriers in this regard is used to support the Federal Universal Service Fund, a specific entity created by the Commission. Thus, it is more appropriate to refer to this item as the "Federal Universal Service Fund" charge, because it is used to defray carriers' obligations to contribute to that fund.[9]

Finally, to the extent the Commission requires carriers to make any changes to their billing systems, they must be given sufficient time to implement those changes. For changes of this type, i.e., that will require "hard coding" of permanent changes into AT&T's billers, AT&T's standard development window is as much as 12 months, particularly for complex billers that serve business

[9] AT&T agrees that the phrase "Number Portability" is not ambiguous.

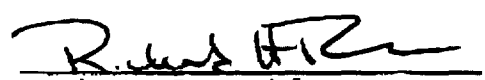
customers. Moreover, changes in the short term could have an impact AT&T's efforts to complete its preparedness for Y2K. The Commission should consider this information (and similar information from other carriers) in establishing the effective date for any rule that would require carriers to make permanent changes to their billing systems.

Conclusion

For the reasons stated above, the Commission should not mandate any specific labels for charges related to federal regulatory action. To the extent that the Commission decides to do so, however, it should adopt the terms "Presubscribed Line Charge" and "Federal Universal Service Fund" rather than the labels referenced in the FNPRM. The Commission should also permit carriers sufficient time to make any necessary changes in their billing systems.

Respectfully submitted,

AT&T CORP.

By: 

Mark C. Rosenblum
Richard H. Rubin
Room 3252I3
295 N. Maple Avenue
Basking Ridge, NJ 07920
(908) 221-4481

Its Attorneys

July 9, 1999